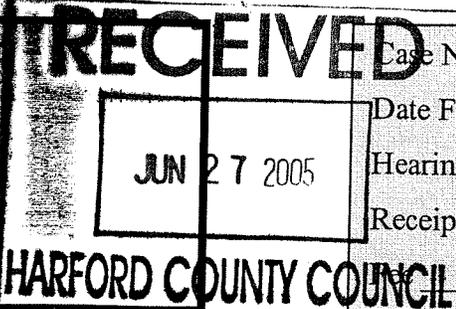


STANDARD APPLICATION

**Harford County
Board of Appeals**
Bel Air, Maryland 21014



Case No. 4825
Date Filed _____
Hearing Date _____
Receipt _____

Shaded Areas for Office Use Only

Type of Application

___ Administrative Decision/Interpretation

___ Special Exception

___ Use Variance

___ Change/Extension of Non-Conforming Use

___ Minor Area Variance

___ Area Variance

___ Variance from Requirements of the Code

___ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code _____

CASE 4825 MAP 26/34 TYPE Special Exception

ELECTION DISTRICT 03 LOCATION: 2836-2838 Forge Hill Road, Bel Air

BY Gregory L., William J. and Patricia D. Wilson and Nextel / Spectrasite

Communications, Inc., 7055 Samuel Morse Drive, Suite 100, Columbia, MD 21046

Appealed because a special exception pursuant to Section 267-53.4C and 267-53.6

of the Harford County Code to allow a communications tower in the AG District

requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name SPETRASITE COMMUNICATIONS, INC. Phone Number CONTACT ATTORNEY

Address C/O 7055 SAMUEL MORSE DRIVE, SUITE 100, COLUMBIA, MD 21046

Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____

Address _____

Street Number Street City State Zip Code

Owner GREGORY L. WILSON, WILLIAM J. WILSON, Phone Number CONTACT ATTORNEY
~~Co-Applicant/Purchaser~~ and PATRICIA D. WILSON

Address 2836-2838 FORGE HILL ROAD BEL AIR MD 21015

Street Number Street City State Zip Code

Attorney/Representative ALBERT J.A. YOUNG Phone Number 410-838-5500

Address 200 S. MAIN STREET BEL AIR MD 21014

Street Number Street City State Zip Code

Land Description

Address and Location of Property 2836-2838 FORGE HILL ROAD, BEL AIR, MD 21015

Subdivision _____ Lot Number _____

Acreage/Lot Size 38.706 AC Election District 03 Zoning AG

Tax Map No. 34 Grid No. 1F Parcel 159 Water/Sewer: Private Public _____

List ALL structures on property and current use: _____

Estimated time required to present case: 1-1/2 HOURS (without opposition)

If this Appeal is in reference to a Building Permit, state number _____

Would approval of this petition violate the covenants and restrictions for your property? NO

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ No

Is this request within one (1) mile of any incorporated town limits? Yes _____ No

Request

SEE ATTACHED

Justification

SEE ATTACHED

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

**Supplementary Documentation in Support of Application for
SPECIAL EXCEPTION**

Applicant: **Spectrasite Communications, Inc.**
Site Name: **MD-0281 Kalmia**
Property Address: **2836-2838 Forge Hill Road
Bel Air, Harford County, Maryland 21015**

STATEMENT OF USE

Background Facts

The Harford County Board of Appeals approved a special exception, submitted by Nextel Communications of Mid-Atlantic, Inc., for the construction of a wireless communications tower in March of 1999. An opponent who claimed to have been wrongfully denied standing at the special exception hearing appealed the decision. The approval decision was affirmed by the Circuit Court, but later reversed by the Court of Special Appeals on the issue of standing and remanded back to the Board of Appeals. While the appeal was pending, on May 30, 2000, the Harford County Council enacted a zoning text amendment that inter alia, established additional new special exception criteria for towers. After the zoning text amendment became effective, the remanded application was back before the hearing examiner and the Board of Appeals for a new hearing in which the opponent was entitled to participate, pursuant to the remand order. At the new hearing, the Board ruled that Nextel's application should be considered in light of the zoning ordinance criteria in effect at the time that the application was initially filed, and approved the special exception. Opponents appealed this new approval. On appeal, the Circuit Court reversed the Board's approval and ruled that the zoning text amendment should be applied retroactively. The Court of Special Appeals subsequently affirmed the Circuit Court decision, and shortly afterwards the Court of Appeals denied Nextel's Petition for Writ of Certiorari. Accordingly, this matter is to be decided under the new special exception criteria.

The tower that is the subject of the instant special exception request has been constructed and is operational. Three (3) building permits were issued by Harford County to Nextel in July of 1999 for the tower, fencing and equipment shelter, and tower construction was substantially completed by March of 2000. Four (4) wireless carriers are currently on the tower: Nextel antennas at an elevation of one hundred ninety (190) feet; Sprint at one hundred eighty (180) feet; T-Mobile at one hundred seventy (170) feet; and Verizon at one hundred sixty (160) feet.

Subsequent to construction, Nextel sold the tower to SpectraSite Communications, Inc.; however, Nextel antennas remain operational on the tower and equipment is located within the compound.

Introduction

The Applicant, SpectraSite Communications, Inc. ("SpectraSite"), is in the process of establishing wireless telecommunications network facilities throughout the region. In order to properly establish a link in the network, SpectraSite seeks a special exception for a one hundred ninety six (196) foot tall lattice tower upon which telecommunications antennas are installed. Equipment is situated within a fenced compound at the base of the tower. The tower complies with the required setbacks and is located over two hundred (200) feet from the closest lot line.

SpectraSite's wireless facilities are designed with three (3) antenna sectors, and each sector is comprised of a set of antennas covering a one hundred twenty (120) degree area. The sectors consist of antennas oriented to face outward at thirty (30) degrees, one hundred fifty (150) degrees, and two hundred seventy (270) degrees. SpectraSite's antennas are roughly forty-eight (48") inches long by twelve (12") inches wide by five (5") inches deep.

The tower and equipment shelter are enclosed within an eight (8) foot tall chain link fence topped with three (3) strands of barbed wire, creating an additional foot of height. The compound is irregularly shaped, roughly seventy five (75) feet by fifty five (55) feet. The tower facility is unmanned; routine maintenance visits are generally conducted one or two times a month by each carrier using the facility. Other than an exterior light near the equipment (manually controlled by a light switch), the tower is not illuminated. The lattice tower is self-supporting (no guy wires are necessary), with a galvanized steel exterior. The unmanned facility is "passive"; and generates no noise, dust, lights, glare, vibrations, odors, or traffic. In addition, the facility poses no threat to the public health, safety or welfare, and does not affect telephone, radio or television reception.

Subject Property

The subject property is located within Harford County, Maryland, known as 2836-2838 Forge Hill Road, in Bel Air, Maryland, and more particularly described as Map 34, Grid 1F, and Parcel 159. The site is located on the northwest side of Forge Hill Road, southwest of the intersection with Allibone Road, and northeast of the intersection with Kalmia Road. The irregularly shaped property comprises thirty-eight point seven zero six (38.706) acres zoned AG (Agricultural) and is improved with a dwelling and agricultural outbuildings as well as the tower and related equipment compound. SpectraSite has installed a twelve (12) foot wide gravel access driveway to the fenced compound, with ingress and egress from Forge Hill Road. The subject property is used for agricultural purposes. The site is atop a wide hill with relatively flat and gently rolling topography; the ground elevation at the base of the tower is 402 feet AMSL.

The site is located within a rural area that is characterized by agricultural land, wooded land and single-family detached dwellings. A few churches and religious facilities are nearby. The topography of the area is generally rolling hills with occasional steep inclines.

Project Description and Need

SpectraSite is licensed by the Federal Communications Commission to provide wireless telecommunications service to its users. SpectraSite's goal is to create a seamless, state-of-the-art all-digital Enhanced Specialized Mobile Radio (ESMR) wireless telecommunications coverage network to rival today's analog cellular mobile systems. This requires the installation of a network of telecommunications antenna and equipment facilities so as to allow each facility to broadcast and receive radio signals within a strictly limited radio frequency range to each wireless user in the vicinity of the facility. Moreover, each facility must be able to pass the user's signal to an adjacent facility as each user travels out of the coverage area and into an adjacent coverage area. Each facility is capable of covering only a limited area, generally determined by the height of the antennas, the local topography and terrain, as well as obstructions such as buildings and structures.

To achieve the desired coverage within the intended geographical coverage area, each antenna facility must be strategically located so as to ensure maximum coverage and a minimum overlap with each other facility. Because of the low power of the system, the antennas are effective only within a limited geographic area. Thus, each facility site is subject to technical and geographical constraints in order to provide reliable and efficient service. The tower is necessary in order to mount the antennas at a height sufficient to service the intended coverage area and to provide a direct line of sight to the other antenna facilities in the network. Moreover, the height of SpectraSite's antennas is sufficient for the radio signal to clear any obstructions such as trees, hills, buildings, or other structures while simultaneously providing coverage to the intended area.

Poorly located facilities or areas without such a facility will leave "holes", or areas where transmission is not possible. Since one of the primary benefits of the wireless communication system is the ability to communicate to and from any location, a network of facilities that provide seamless coverage is essential. The location and design of each facility in the network is therefore critical to the overall functioning of the entire network. Without a facility at this location, the entire network will not provide the coverage required by the FCC.

Antenna and Equipment Shelter Description

The facility uses panel antennas that are each approximately forty eight inches (48) long by twelve (12) inches wide by five (5) inches deep, which are installed at the top of the tower. The antennas are white and may be painted almost any color. The antennas do not generate any noise, dust, fumes, odors, lights, glare, or vibrations, and do not interfere with radio, television or telephone reception.

The antenna emissions comply with all applicable EPA and FCC emission requirements. The antennas transmit between frequencies 851 to 866 MHz, and receive between 806 and 821 MHz. The facility operates in compliance with the applicable FCC, ANSI and IEEE RF exposure standards. Even under maximal exposure conditions from a number of wireless service providers on an single tower, in which all channels are operating at full power (a rare circumstance during routine operation), the maximum exposure at locations normally occupied by members of the general public from a typical deployment of

these facilities will not result in power densities in excess of the current FCC public exposure standard.

SpectraSite's twelve (12) foot by twenty (20) foot prefabricated equipment shelter is situated within the compound near the base of the tower. The shelter exterior is stone aggregate of earth-toned colors, with aluminum trim. The equipment does not produce any noise, fumes, vibrations, dust, odors, lights, glare or vibrations. No fuel tanks or toxic chemicals are stored on site.

Applicable Legal Standards

Section 704 of the 1996 Telecommunications Act requires that State and local governments "*(I) shall not unreasonably discriminate among providers of functionally equivalent [wireless telecommunications] services; and (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.*" Accordingly, local governments cannot prohibit, either by law or by action, wireless telecommunications facilities. Regulations cannot have the effect of prohibiting wireless facilities, even though it may purport to allow such facilities. Moreover, local governments must undertake to consider all wireless telecommunication zoning requests on an equal basis.

In addition, Section 704 also provides that "*(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.*" All antennas are in compliance with the applicable FCC emission requirements. The facility poses no threat to the public health, safety or welfare; and will not affect telephone, radio or television reception.

To the extent that the Article VIII A "Telecommunications Facilities" of the Harford County Zoning Code allows the installation of a wireless antenna facility on the subject property, SpectraSite's request for a special exception is appropriate. The granting of a special exception will be in harmony with the spirit and intent of the Zoning Regulations; and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. As demonstrated below, the proposed use complies with the special exception use criteria. The Harford County special exception use criteria are listed in boldface; the SpectraSite response immediately follows.

267-53.4. Communications Towers

C. Communications towers shall be allowed by special exception, up to 199 feet, in the R, RR, R1, R2, VR, VB, B1, B2 and AG Districts.

Response: The subject property is zoned AG, which permits the tower as a special exception use, subject to the enumerated criteria. The tower conforms to the enumerated criteria, as more fully addressed below.

267-53.5 Provisions Applicable to All Communications Towers

- A. All communications towers shall be structurally designed to accommodate for co-location, which shall mean the ability of the structure to allow for the placement of antennas for 3 or more carriers. . . .**

Response: The tower is designed for co-location, currently supports the antennas of four (4) wireless carriers, and accordingly complies with this requirement.

- B. No aviation-related lighting shall be placed upon any communications tower unless specifically required by the Federal Aviation Administration or other governmental agency.**

Response: The tower contains no aviation related lighting. No governmental agency currently requires that the tower be illuminated. The tower is not illuminated.

- C. Monopoles shall be the preferred communications tower structure type within the County.**

Response: The tower is a lattice type of tower, and is not a monopole. The lattice design allows for greater height and additional support for the collocation of additional wireless carriers' antenna arrays. Although "preferred", monopoles are not mandatory.

- D. To the extent practicable, communications towers shall have suitable landscaping in order to screen the site from adjoining properties.**

Response: The applicant believes that the site is adequately screened from the neighborhood, and will landscape in accordance with County requirements.

- E. The only signage permitted on any communications tower shall be single sign no larger than 6 square feet, affixed to the equipment building or fence enclosure that identifies the tower owner, each locating provider and the phone number for the person to contact in the event of an emergency.**

Response: A small sign less than six (6) square feet identifying contact personnel is affixed to the enclosure fencing.

- F. Upon completion of a communications tower and every 5 years after the date of completion, the owner of the tower shall submit to the Zoning Administrator written certification from a professional engineer verifying that the tower meets all applicable building code and safety requirements applicable at the time the original building permit was issued. . . .**

Response: It has been less than five (5) years since the zoning text amendment that created this criterion was enacted.

G. All zoning certificate applications for construction of new communications towers shall be subject to the DAC review process . . .

Response: This provision appears to be inapplicable, in that it pertains to post-zoning approval procedures, and construction is completed. The existing tower has been through the County development process.

H. The applicant shall be responsible for maintaining the communications tower in a safe condition.

Response: The tower shall at all times be maintained in a safe condition.

I. Communications towers shall be utilized continuously for wireless communications. In the event that a communications tower ceases to be used for wireless communications for a period of 6 months, the approval will be revoked. . . . The applicant shall ensure removal of the tower and all associated accessory structures by posting an acceptable monetary guarantee with the County on forms provided by the Office of the Zoning Administrator. . . .

Response: The communications tower shall be used continuously for wireless communications. The required guarantees will be posted upon special exception approval.

J. Every application for the construction of a new communications tower shall include the following:

- 1. Information demonstrating the applicant's radio frequency need for the facility, including computer modeling information, an explanation as to why collocation is not feasible and a list of alternative sites considered.**

Response: A set of radio frequency ("RF") propagation maps is submitted herewith, indicating wireless coverage with the site on-air and coverage without the site. These maps clearly demonstrate a need for coverage at this site. As more fully discussed below, there are no structures of sufficient height within a mile of the subject property that could accommodate antennas and provide coverage to the area.

- 2. A checklist prepared in conformity with Section 106 of the National Environmental Policy Act and any other documents filed by the applicant with the FCC related to the site if requested by the department.**

Response: A NEPA checklist is submitted herewith. SpectraSite will provide any other site related FCC documents that are requested by the department.

3. **A Site Plan, including the layout of the site, a drawing or other physical description of the proposed communications tower and any equipment buildings, and a map showing the area within a one mile radius of the tower.**

Response: Site Plans showing the layout of the site and a description of the tower, as well as a map of a one (1) mile radius of the tower are submitted with this application.

4. **A description of the number of carriers' equipment that the tower can accommodate and a statement as to whether the applicant will allow other carriers to co-locate on the facility.**

Response: Other carriers may co-locate upon the tower. A description of the antennas and equipment of the four (4) carriers currently on the tower is as follows:

Carrier Equipment Info							
Carrier / Owner Names	Approx. Rad Center	Generic Antenna Type	No. of Sectors / Rad Center		No. of Antennas / Sector	Estimated Length of Antenna(s)	Size of Coax (in.)
Nextel	190	Panel	3		3	4'	3 @ 1 5/8"
Sprint	180	Panel	3		2	4'	2 @ 1 5/8"
T-Mobile	170	Panel	3		1	6'	4 @ 1 1/4"
Verizon	160	Panel	3		2	4'	2 @ 1 1/4"
Carrier / Owner Names	Ground Equip. Fdn / Support Type		Width (ft.)	Length (ft.)	Equipment Description		
Nextel	Concrete pad / footings		10	20	Shelter		
Sprint	Platform w/ conc piers		10	20	cabinets		
T-Mobile	Concrete pad / footings		10	15	cabinets		
Verizon	Concrete pad / footings		12	30	shelter		
Sprint	Pipe frame / posts		6	6	PPE-Power and Telco boxes		

5. **Documentation demonstrating that the tower shall be designed and constructed in accordance with any applicable American National Standards Institute.**

Response: Nextel constructed the facility in accordance with building permits lawfully obtained from Harford County, copies of which are submitted with this application. All applicable ANSI standards are noted on the construction drawings submitted as part of the building permit application package, which was reviewed and approved by the County.

6. **Proof that the applicant owns or otherwise has permission to use the site, along with any easements necessary to access the site.**

Response: A copy of the lease and the ingress/egress easement included therein is submitted with the application.

7. **A certification from each carrier that will utilize the facility that its equipment will meet all applicable federal standards governing the emission of energy from such facilities.**

Response: Copies of the required certifications are attached hereto.

8. **A non-binding 5-year plan showing the applicant's existing and proposed communications network within the County. In accordance with state law . . . the department shall treat the 5-year plan it obtains as confidential and shall not permit public inspection of the information.**

Response: SpectraSite shall submit a non-binding five (5) year plan, labeled "proprietary and confidential" to the department under a separate cover.

K. When proposing a new communications tower, the applicant must demonstrate a radio frequency need for such a facility by showing:

1. **That the applicant has researched the co-location possibilities in the area, including in its research a review of the County's database of structures.**

Response: There are no co-location opportunities in the area of the subject property that would provide sufficient height and structural support to accommodate the antenna arrays. A drive-by analysis of the area within a one (1) mile radius of the site yielded no viable collocation structures. The fact that three (3) additional wireless carriers have collocated upon the tower further evidences the need for such a facility. The Harford County database of towers in the vicinity only shows a one hundred (100) foot tall monopole at 2240 Conowingo Road, approximately two (2) miles south of the subject property. This monopole is too short and too far from the coverage area to provide the necessary coverage and thus be considered be a viable collocation possibility. Two (2) unidentified lattice towers were visually observed on the west side of Route 1 (Conowingo Road) at least two (2) miles south of the subject property; these are likewise too distant from the intended search/coverage area to be considered a collocation possibility.

2. **That due to the absence of sufficiently tall structures in the search area, the absence of structural capacity on existing structures or other valid engineering or economic factors, no viable co-location opportunities exist in the search area.**

Response: As discussed more fully above, there are no collocation opportunities in the area of the subject property that would provide sufficient height and structural support to accommodate the antenna arrays. A drive-by analysis of the area within a one (1) mile radius of the site yielded no viable collocation structures.

266-9. Board of Appeals

I. Limitations, guides and standards. In addition to the specific standards, guidelines and criteria described in this Part 1 and other relevant considerations, the Board shall be guided by the following considerations. . . . the Board shall not approve an application if it finds that the proposed building . . . [or] use . . . would adversely affect the public health, safety and general welfare or would result in dangerous traffic conditions or jeopardize the lives or property living in the neighborhood. . . .

Response: SpectraSite's facility poses no threat to the health, safety or general welfare of present or future inhabitants of the County, and does not create any adverse impacts; alter the character of the neighborhood, or otherwise impact traffic or other matters affecting the public health, safety and general welfare. The use does not and will not adversely impact the area and promotes the public health, safety and welfare, for the following reasons:

- The use is "passive" and unmanned, and does not generate any noise, vibrations, dust, lights, odors, glare or fumes. No detectable emissions emanate from the facility.
- Any impacts of this use at this location are no greater than any of the adverse effects ordinarily associated with this same use anywhere else in the Agricultural Zoning district.
- All RF emissions are in compliance with all applicable FCC and EPA regulations, standards and guidelines, and accordingly pose no threat to public health, safety and welfare, and do not negatively impact property or the environment;
- The tower is designed and constructed in accordance with applicable building codes;
- The facility does not interfere with local television, radio or telephone reception;
- The facility does not generate any significant traffic, other than occasional routine maintenance vehicles and does not affect local services, utilities, improvements or facilities;
- The special exception use is unmanned and thus does not impact public water and sewer, private septic systems, refuse collection and public schools;
- No fuels or dangerous chemicals are stored on-site;
- The special exception use, if granted, will allow residents and visitors in Harford County to make and receive wireless telecommunications messages, thereby promoting the public health, safety and welfare by creating instantaneous wireless communications between County residents and County emergency services, thereby saving lives and property; and
- The use promotes the overall existing high quality of living afforded to the residents and helps assure that those aspects of the Harford County environment which make it a desirable community are available to all residents of the County.

Conclusion

The Applicant, SpectraSite Communications, Inc., respectfully requests that the proposed special exception be approved. Insofar as the Harford County Zoning Code allows the installation of a wireless communications tower on the subject property, SpectraSite's request for a special exception is appropriate. The granting of a special exception will be in harmony with the spirit and intent of the Zoning Regulations; and will not be injurious to the neighborhood or

otherwise detrimental to the public welfare. The use complies with the special exception criteria and provides a benefit to the public.

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



Anthony S. McClune
Acting Director of Planning & Zoning

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

October 11, 2005

REVISED STAFF REPORT

BOARD OF APPEALS CASE NO. 4825

APPLICANT: Nextel Communications of Mid-Atlantic
7055 Samuel Morse Drive, Suite 100
Columbia, MD 21046

PROPERTY OWNER: Gregory Wilson, William Wilson, and Patricia Wilson
2836-2838 Forge Hill Road, Bel Air, MD 21015

REPRESENTATIVE: Albert J. A. Young, Esquire
200 South Main Street
Bel Air, MD 21014

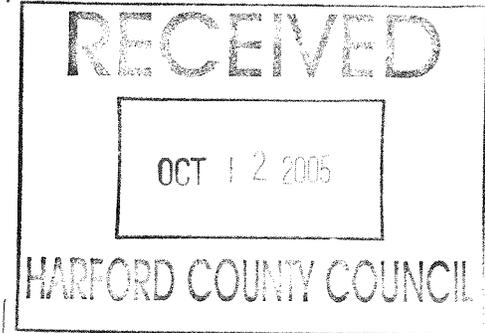
LOCATION: 2836-2638 Forge Hill Road, Bel Air, MD 21015
Tax Map 26 and 34 / Grid 1F / Parcel 159
Third Election District

ACREAGE: 38.706 acres

ZONING: AG/Agricultural

DATE FILED: April 13, 1998

HEARING DATE: October 24, 2005 - On remand by the Circuit Court for Harford County, in an Order dated July 29, 2003, to vacate the Board of Appeals decision of October 1, 2002, granting a special exception to Nextel Communications, Inc., and to apply the provisions of County Council Bill No. 00-11, effective July 31, 2000, to all further proceedings



APPLICANT'S REQUEST and JUSTIFICATION:

See Attachment 1.

Preserving Harford's past; promoting Harford's future

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410.638.3000 • 410.879.2000 • TTY 410.638.3086 • www.harfordcountymd.gov

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.

CODE REQUIREMENTS:

The Applicants are requesting a special exception pursuant to Section 267-53.4C and Section 267-53.6 of the Harford County Code to allow a communication tower in the AG / Agricultural District.

Section 267-53.4C of the Harford County Code reads:

- C. *Communications tower shall be allowed by special exception up to 199-feet, in the R, RR, R1, R2, VR, VB, B1, B2, and AG District.*

Section 267-53.6 of the Harford County Code reads:

An applicant proposing a new communications tower in the R, RR, R1, R2, VR, VB, B1, B2, or AG Districts shall demonstrate that the request complies with the following conditions:

- A. *The placement of the communications tower at the proposed location will not have a material negative impact on the value, use or enjoyment of any adjoining parcel.*
- B. *The applicant has made a diligent attempt to locate the Applicant's antenna on an existing tower or nonresidential building or structure.*
- C. *The Applicant shall provide the following additional information in support of its application:*
- (1) Photographs of existing site conditions;*
 - (2) Photographs demonstrating that a balloon test has been conducted, or other evidence depicting the visual impact of the proposed tower within a one mile radius of the tower; and*
 - (3) A map describing the topography of the site and the area within a one-mile radius of the proposed tower.*

Enclosed with the report is a copy of Section 267-51 and 267-52 of the Harford County Code (Attachment 2).

Section 267-9I of the Harford County Code entitled Limitation, Guides and Standards will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The subject property is located south of US Route 1 (Conowingo Road), west of Allibone Road, on

REVISED STAFF REPORT

Board of Appeals Case Number 4825

Wilson / Nextel Communications

Page 3 of 7

the north side of Forge Hill Road. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 3A-B and 4).

The area in the vicinity of the subject property is designated as Agricultural. There are State and County Parks (greater than 10 acres) in the vicinity. The Natural Features Map reflects Agricultural Preservation Districts and Easements, Deer Creek Scenic River District, and stream buffer systems. The subject property is designated as Agricultural which is defined by the 2004 Land Use Element Plan as:

Agricultural – Areas where agriculture is the primary land use, but where development rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Resources Map (Attachments 5 and 6).

Land Use – Existing:

The land uses in this area of the County consist primarily of agriculture and residential. An institutional use (church) is located southwest on Forge Hill Road. Enclosed with the report are copies of the aerial photographs. (Attachments 7A - B)

The subject property is lot 3 of the Land of E. Kirkwood and consists of approximately 38.706 acres. Improvements consist of a two-story frame dwelling, a greenhouse, a barn, various other agricultural accessory structures, and the tower that is the subject of this request. Enclosed with the report are site photographs. (Attachment 8)

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan and Land Use Element Plan as well as the existing land uses. The predominant zoning classification in this area of the County is AG Agricultural. An area of B3 General Business is located to the west at the intersection of Forge Hill Road and US Route 1 (Conowingo Road). Enclosed with the report is a copy of the Zoning Map. (Attachment 9)

Zoning History:

This request was previously heard by the Board of Appeals and appealed through the Court system.

It has been remanded back to the Board of Appeals to be heard under the current requirements of the Harford County Code for telecommunications towers.

SUMMARY:

The Applicants are requesting a special exception pursuant to Section 267-53.4C and Section 267-53.6 of the Harford County Code to allow a communication tower in the AG / Agricultural District.

Section 267-53.4C:

- C. *Communications tower shall be allowed by special exception up to 199-feet, in the R, RR, R1, R2, VR, VB, B1, B2, and AG District.*

The subject property is located within the AG / Agricultural District. The height of the tower is less than 199-feet.

Section 267-53.6:

An applicant proposing a new communications tower in the R, RR, R1, R2, VR, VB, B1, B2, or AG Districts shall demonstrate that the request complies with the following conditions:

The subject property is located within the AG / Agricultural District.

- A. *The placement of the communications tower at the proposed location will not have a material negative impact on the value, use or enjoyment of any adjoining parcel.*

The Applicants have included photographs of the existing tower. The photographs demonstrate that the visual impacts from the proposal are minimal.

- B. *The applicant has made a diligent attempt to locate the Applicant's antenna on an existing tower or nonresidential building or structure.*

The Applicants have stated that there are no existing structures in the general area that meet engineering requirements.

- C. *The Applicant shall provide the following additional information in support of its application:*

- (1) *Photographs of existing site conditions;*

- (2) *Photographs demonstrating that a balloon test has been conducted, or other evidence depicting the visual impact of the proposed tower within a one mile radius of the tower; and*
- (3) *A map describing the topography of the site and the area within a one-mile radius of the proposed tower.*

The information described in these sections has been included in the report submitted by the applicant. (Attachment 10)

Section 267-9I:

- (1) *The number of persons living or working in the immediate area.*

The land uses in this area of the County are a mixture of agricultural, residential, and institutional. There are no major residential developments in this area, only individual dwellings. The predominant land use in the area is agricultural. The tower is located in an area where there is no interference with farming operations.

- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

The main access to the site is from Forge Hill Road. The tower generates occasional visits by maintenance vehicles but should have little or no adverse impact on the neighborhood.

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the county.*

Wireless communication companies are required by the Federal Communications Commission (FCC) to provide state of the art communications network to its customers. The new digital mobile systems require a closer network of towers to complete the loop for customers. Therefore, terrain and topography are very important when preparing site locations and in assuring that the desired coverage is maintained. The Applicant has constructed the tower to accommodate at least four carriers on the tower eliminating the need for other wireless companies to construct additional towers in the general vicinity. At this time, the tower is being utilized by Sprint, T-Mobile, Verizon, and Nextel.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

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The tower generates no noise, glare, fumes, odors, etc.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The local Sheriff's Office and the Maryland State Police provide police protection. The Local Volunteer Fire Company provides fire protection. Water and sewer facilities and trash removal are not issues in this request.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The system of towers is necessary to provide improved and complete service to customers in this northern area of the County. The Federal Communications Commission requires that wireless communications systems provide a "seamless" service without gaps.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

This proposal has no adverse impact on the above uses.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The Master Plan promotes maintaining or improving the quality of life for the citizens of Harford County. The tower is to improve the digital communication facilities around the County.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

This proposal does not impact any Natural Resource District on the site.

- (10) *The preservation of cultural and historic landmarks.*

There are no known historic or archeological sites at this location.

The Department finds that the Applicants have or will be able to meet the requirements of Section 267-53.5G. In addition to the other requirements, Section 267-53.5G requires that when the communications tower is allowed by special exception, the County's radio frequency engineer shall

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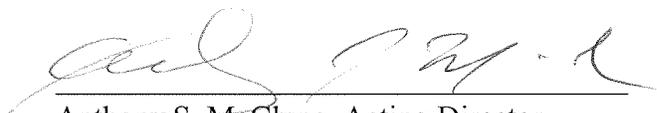
determine whether the applicant has shown a radio frequency need, based on coverage and/or capacity issues, or other engineering requisites, to construct a new communications tower. In addition, the County's radio frequency engineer shall ensure that any new tower does not interfere with or obstruct existing or proposed communications towers designed for public safety use.

Information pertaining to the above requirements were submitted and subsequently reviewed by the County's radio frequency engineer. The County's radio frequency engineer has determined that the request for this tower fills a gap in the applicant's coverage and appears to be a logical placement for the tower. In addition, the tower's location does not interfere with the current microwave paths for the Public Safety radio system. Enclosed with this report is a copy of the radio frequency review. (Attachment 11)

RECOMMENDATION and/or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends the requested special exception be approved subject to the applicant submitting an acceptable monetary guarantee with the County to ensure removal and disposal of all visible remnants and materials when the use of the tower ceases pursuant to Section 267-53.5I.


Shane Grimm, Chief
Site Plan & Permits Review Section


Anthony S. McClune, Acting Director
Department of Planning and Zoning

SG:ASM/jf